



Public Employees for Environmental Responsibility

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December 8, 2017

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: FOIA REQUEST

To whom it may concern:

In a letter dated December 4, 2017 to U.S. Senator Sheldon Whitehouse (D-R.I.) and other members of the Senate, U.S. Environmental Protection Administrator Scott Pruitt wrote that he understood the lawmakers' concerns regarding the recent cancellation of presentations by two EPA scientists and a contractor at a Narragansett Bay workshop in Providence, R.I., in October and that:

"Procedures have been put in place to prevent such an occurrence in the future. I have assured Office of Research and Development ('ORD') political and career senior leadership that they have the authority to make decisions about event participation going forward. This has been communicated to all ORD staff throughout the country, and ORD will continue to conduct research outlined in our Strategic Research Action Plans reflecting Congressional appropriations. .. Additionally, I am committed to upholding EPA's Scientific Integrity Policy, which ensures that the Agency's scientific work is of the highest quality, is presented openly and with integrity, and is free from political interference."

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning the basis of these statements by Administrator Pruitt. Specifically, we request the following:

1. Documents reflecting the referenced "Procedures [that] have been put in place to prevent such an occurrence in the future."
2. Records reflecting Mr. Pruitt's referenced assurances to ORD "political and career senior leadership that they have the authority to make decisions about event participation going forward."

3. Copies of the referenced communications to ORD staff on this topic.
4. Documents which summarize or enumerate research ORD is, or is slated, to undertake as “outlined in our Strategic Research Action Plans reflecting Congressional appropriations.”
5. Any records reflecting any internal communications from Mr. Pruitt concerning “EPA’s Scientific Integrity Policy” including any documents reflecting steps Mr. Pruitt is taking to uphold that policy.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The requested material would indicate the basis for statements and assurances Administrator Pruitt made to members of the U.S. Senate. The records concern the details behind those statements and assurances and thus are the most likely records to enable the public to understand precisely what steps Mr. Pruitt is taking.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

The requested information concerns the quality and freedom from suppression of science at EPA. The affected scientific endeavors touch on public health concerns of virtually every U.S. resident.

The general public also has a keen interest in whether EPA policy will be science-based. In addition, the public has an interest in whether the EPA Administrator is making factual public statements. All of the above addresses the acute public concern as to whether and how effectively EPA performs its mission.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

PEER has a long track record of attracting media and public attention to the internal workings of EPA. In addition, the cited statements by Administrator Pruitt have already generated national media attention.

4. The disclosure must contribute “significantly” to public understanding of government operations or activities.

The nature of the information should shed direct light on the quality and integrity of both scientific work at EPA, as well of that of its leadership. It will also help the public to understand precisely how the agency will facilitate scientific freedom for its professional staff. Absent the requested information, only general statements will have been publicly communicated.

Mr. Pruitt and the referenced Strategic Research Action Plans promise a central role for scientific research at EPA but the specifics of precisely what that means have not been detailed. We seek that detail so that the public can see how much substance there is behind these promises.

Finally, Mr. Pruitt is representing that he is taking steps to prevent political suppression of or interference with scientific work at EPA. He does not spell out what those steps are. Consequently, the requested documents will enable the public to fill in what would otherwise be left blank.

5. The extent to which disclosure will serve the requestor’s commercial interest.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

6. The extent to which the identified public interest in the disclosure outweighs the requestor’s commercial interest.

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency’s final response within 20 working days.

Cordially,

Jeff Ruch
Executive Director